

Factual Allegations

4. The Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was enacted to encourage businesses to keep employees on their payroll by providing employers with an Employee Retention Credit (“ERC”). The ERC is a refundable tax credit for certain eligible businesses with employees whose business operations were affected during the COVID-19 pandemic. See The Coronavirus Aid, Relief and Economic Security Act (CARES Act), Pub. L. No 116-136, 134 Stat. 281 (2020), as amended by section 206 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Relief Act), enacted as Division EE of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020).

5. Plaintiff is a service-disabled veteran owned business specializing in federal government contracting headquartered at 335 High Street, Maryville, TN 37804.

6. At all times material to this matter, Plaintiff employed fewer than 500 employees.

7. Plaintiff met all qualifications under the CARES Act and other applicable law to receive the ERC during the second and third quarters of 2021.

8. On behalf of Plaintiff, Payroll Tax Network LLC timely filed Plaintiff’s IRS Form 941 Employer’s Quarterly Federal Tax Returns for the second and third quarters of 2021, and Plaintiff paid the appropriate employment tax amounts (before adjustment based on the ERC) to the IRS.

9. In December 2022, Payroll Tax Network LLC subsequently filed an IRS Form 941-X Adjusted Employer’s Quarterly Federal Tax Return or Claim for Refund on behalf of Plaintiff for each of the second and third quarters of 2021 in order to claim the ERC for Plaintiff for those two reporting periods.

10. On both Form 941-Xs, Plaintiff checked the box in Line 2, indicating that Plaintiff was filing a claim for refund of the amounts reflected in the adjusted return.

11. On both Form 941-Xs, Plaintiff provided in Line 43 the following explanation of how Plaintiff determined its corrections to the previously filed 941s: “Amending the quarter to record the Employee Retention Credit. Please mail the refund to the address of record. Thank you.”

12. On the Form 941-X for the second quarter of 2021, Plaintiff sought a refund in Line 27 in the amount of \$1,465,371.25, reflecting 70% of Plaintiff’s qualified wages during the applicable reporting period.

13. On the Form 941-X for the third quarter of 2021, Plaintiff sought a refund in Line 27 in the amount of \$1,154,698.80, reflecting 70% of Plaintiff’s qualified wages during the applicable reporting period.

14. The IRS confirmed receipt of Plaintiff’s claims for refund and notified Plaintiff that a representative was assigned to the claims; however, the IRS did not provide any contact information for the assigned representative.

15. Since receiving Plaintiff’s claims in December 2022, the IRS has not challenged any of the information provided by Plaintiff and has not asked any questions about Plaintiff’s claims. The IRS has also not responded to Plaintiff’s requests for information about the status of Plaintiff’s claims.

16. More than eighteen months has passed since the IRS received Plaintiff’s claims for refund in December 2022, and the IRS has failed or refused to process Relyant’s Form 941-Xs and has failed or refused to issue the appropriate refunds reflecting the ERC amounts to which Plaintiff is entitled.

Cause of Action – Claim for Refund of ERC Credit

17. Plaintiff incorporates and realleges each allegation set forth in the preceding paragraphs of this Complaint.

18. Pursuant to 26 U.S.C. § 7422, a refund suit for the recovery of income taxes can be commenced in the appropriate federal district court after a claim for refund has been filed with the Secretary.

19. Plaintiff's claim for refund is ripe because more than six months (in fact, more than eighteen months) has passed since the IRS received Plaintiff's Form 941-Xs for the second and third quarters of 2021 in December 2022.

20. Plaintiff qualifies for the ERC credit for the second quarter of 2021 in the amount of \$1,465,371.25; however, the IRS has failed or refused to pay Plaintiff any portion of the refund amount.

21. Plaintiff qualifies for the ERC credit for the third quarter of 2021 in the amount of \$1,154,698.80; however, the IRS has failed or refused to pay Plaintiff any portion of the refund amount.

22. Plaintiff is therefore entitled to an award of damages in the total amount of \$2,620,070.05, plus interest. Plaintiff has been, and continues to be, damaged by the refusal of the IRS to process the Form 941-Xs for the second and third quarters of 2021 and to issue refunds for the ERC credits.

WHEREFORE, Plaintiff prays for the following relief:

1. That summons be issued and that Defendant be duly served with a copy of the Complaint and be required to answer same, and that this Court decree and enter judgment;

2. That the Court order Defendant to issue a refund in the amount of \$1,465,371.25 for the ERC for the second quarter of 2021;

3. That the Court order Defendant to issue a refund in the amount of \$1,154,698.80 for the ERC for the third quarter of 2021;

4. That the Court award Plaintiff prejudgment and post-judgment interest to the greatest extent allowed by law;

5. That the Court award Plaintiff its costs and expenses of litigation, including reasonable attorneys' fees to the greatest extent allowed by law or in equity;

6. That the court costs incurred in this civil action be taxed to Defendant; and

7. That the Court award Plaintiff such other, further, and general relief as may be just and proper under the circumstances.

Respectfully submitted this 11th day of July, 2024.

LACY, PRICE & WAGNER, PC

By: /s/ James H. Price

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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2024, a true and exact copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

/s/ James H. Price

James H. Price (BPR #016254)